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Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2008-47

**CECELIA THERESA ORNELAS,
a.k.a., CECILIA THERESA LEYVA**
308 Linda Road
Santa Barbara, CA 93109

A C C U S A T I O N

Vocational Nurse License No. VN 207576

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about January 12, 2004, the Board of Vocational Nursing and Psychiatric Technicians ("Board") issued Vocational Nurse License No. VN 207576 to Cecelia Theresa Ornelas, also known as Cecelia Theresa Leyva ("Respondent"). Respondent's Vocational Nurse License expired on October 31, 2009, and has not been renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
7 license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the
8 period within which the license may be renewed, restored, reissued or reinstated. Under section
9 2892.1 of the Code, the Board may renew an expired license at any time within (4) four years
10 after the expiration.

11 5. Code section 490 provides, in pertinent part:

12 "(a) In addition to any other action that a board is permitted to take against a licensee, a
13 board may suspend or revoke a license on the ground that the licensee has been convicted of a
14 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
15 or profession for which the license was issued.

16 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
17 discipline a licensee for conviction of a crime that is independent of the authority granted under
18 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
19 of the business or profession for which the licensee's license was issued.

20 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
21 conviction following a plea of nolo contendere. Any action that a board is permitted to take
22 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
23 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a subsequent order under the
25 provisions of Section 1203.4 of the Penal Code."

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1 6. Code section 492 states:

2 "Notwithstanding any other provision of law, successful completion of any diversion
3 program under the Penal Code, or successful completion of an alcohol and drug problem
4 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
5 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
6 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
7 division, from taking disciplinary action against a licensee or from denying a license for
8 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
9 record pertaining to an arrest.

10 "This section shall not be construed to apply to any drug diversion program operated by any
11 agency established under Division 2 (commencing with Section 500) of this code, or any
12 initiative act referred to in that division."

13 7. Code section 2875 provides, in pertinent part, that the Board may discipline the
14 holder of a vocational nurse license for any reason provided in Article 3 (commencing with
15 section 2875) of the Vocational Nursing Practice Act.

16 8. Code section 2878 states, in pertinent part:

17 "The Board may suspend or revoke a license issued under this chapter [the Vocational
18 Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

19 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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21 "(f) Conviction of a crime substantially related to the qualifications, functions, and duties
22 of a licensed vocational nurse, in which event the record of the conviction shall be conclusive
23 evidence of the conviction.

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25 "(j) The commission of any act involving dishonesty, when that action is related to the
26 duties and functions of the licensee."

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9. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license."

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 2518.6, provides, in pertinent part:

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"(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

- (1) Maintaining current knowledge and skills for safe and competent practice;
- (2) Maintaining patient/client confidentiality;
- (3) Maintaining professional boundaries with the patient/client;
- (4) Abstaining from chemical/substance abuse; and
- (5) Cooperating with the Board during investigations as required by Section 2878.1

of the Business and Professions Code.

"(c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action."

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1 11. California Code of Regulations, title 16, section 2521, provides, in pertinent part:
2 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
3 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
4 considered to be substantially related to the qualifications, functions or duties of a licensed
5 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
6 vocational nurse to perform the functions authorized by his license in a manner consistent with
7 the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those
8 involving the following:

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10 (c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
11 violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the
12 Business and Professions Code.

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14 (f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or
15 dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and
16 Professions Code."

17 **COST RECOVERY**

18 12. Code section 125.3 provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 **DANGEROUS DRUGS**

23 13. "Lyrica", is a Schedule V controlled substance as designated by Health and Safety
24 Code section 11058, and is categorized as a dangerous drug pursuant to Business and Professions
25 Code section 4022.

26 14. "Morphine," is a Schedule II controlled substance pursuant to Health and Safety Code
27 section 11055(b)(1)(M) and a dangerous drug pursuant to Business and Professions Code section
28 4022.

15. "Norco," is the brand name for the combination narcotic, Hydrocodone and Acetaminophen, and is a Schedule III controlled substance pursuant to Health and Safety Code section 11056(e) and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

16. "Valium," a trade name for the chemical substance diazepam, a benzodiazepam derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(9) and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially-Related Crime)

17. Respondent is subject to disciplinary action under Code sections 490, and section 2878, subdivision (f), in conjunction with California Code of Regulations, title 16, section 2521, in that Respondent was convicted of crimes that are substantially related to the qualifications, functions, and duties of a vocational nurse as follows:

a. On or about July 23, 2009, after pleading *nolo contendere*, Respondent was convicted of one misdemeanor count of violating Penal Code section 602, subdivision (m) [trespassing: occupied property without owner consent], and one misdemeanor count of violating Business and Professions Code section 4060 [possession of a controlled substance without a prescription], in the criminal proceeding entitled *The People of the State of California v. Cecelia Theresa Ornelas* (Super. Ct. Santa Barbara County, 2009, No. 1293741). As to the Penal Code section 602 conviction, the court fined Respondent and placed her on probation for a period of 36 months. As to the Business and Professions Code 4060 conviction, the court placed Respondent on Diversion and deferred entry of judgment for 18 months. Subsequently, on or about February 24, 2010, the court terminated Respondent's Diversion and reinstated criminal proceedings. The court issued a \$10,000 warrant for Respondent's arrest.

b. The circumstances surrounding the conviction are that on or about June 27, 2008, Respondent did unlawfully enter and trespass occupied property without the legal owner's consent and authorization. Respondent was employed as a staff licensed vocational nurse at Community

1 Home Health ("CHH"), located at 360 South Hope Avenue, Suite #C-200, Santa Barbara,
2 California 93105, from mid-2007 to on or about July 02, 2008. On or about April 07, 2008,
3 Respondent admitted that she was too "drunk to work," and also admitted to "being an alcoholic,"
4 which was the reason for her not completing her assigned duties as a home health care nurse. On
5 or about July 1, 2008, the director of professional services at CHH received a telephone call from
6 a patient reporting that Respondent had stolen his prescription controlled substances from his
7 residence during her working shift on June 27, 2008. A CHH administrator later went to
8 Respondent's residence and observed the patient's empty prescription medication inside
9 Respondent's vehicle. As a result, Respondent was terminated from CHH for unprofessional
10 conduct regarding the theft of controlled substances.

11 c. On or about August 20, 2012, after pleading nolo contendere, Respondent was
12 convicted of one misdemeanor count of violating Vehicle Code Section 4462.5 [false evidence of
13 registration], in the criminal proceeding entitled The People of the State of California v. Cecelia
14 Theresa Ornelas (Super. Ct. Santa Barbara County, 2012, No. 1422408). Respondent was fined
15 and ordered to serve 30 days in jail.

16 d. The circumstances surrounding the conviction are that on or about July 20, 2012,
17 Respondent was pulled over by a California Highway Patrol officer for driving with her vehicle
18 registration expired, although her vehicle displayed a 2013 year tab on her vehicle plate.
19 Respondent's driver license appeared to have expired on September 1, 2006. After being asked
20 about the 2013 registration tab, Respondent explained that she had possession of the vehicle for
21 one year, and that the 2013 registration tab was already attached. The officer determined this to
22 be an impossibility since that would mean Respondent took possession of the vehicle around July
23 2011 and 2013 registration tabs were not issued by DMV at that time. After further examination,
24 the officer determined that there were several years worth of registration tabs between the
25 vehicle's expired 2012 tab and the 2013 false registration tab. Respondent was placed under
26 arrest for a \$5,000 misdemeanor warrant in addition to the false evidence of registration.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

3 21. Respondent is subject to disciplinary action under Code section 2878, subdivision (j),
4 in that Respondent was convicted of a crime and committed an act involving dishonesty, fraud,
5 and deceit. Complainant refers to, and by this reference incorporates, the allegations set forth
6 above in paragraph 17, subparagraphs (a) and (b), inclusive, as though set forth fully.

7 **ADDITIONAL DISCIPLINARY CONSIDERATIONS**

8 22. To determine the degree of discipline, if any to be imposed on Respondent,
9 Complainant alleges the following:

10 a. On or about December 18, 2003, Respondent received a "Notice of Warning" from
11 the Board stating that Respondent should behave honestly and ethically. Further substantial
12 reports that she violated the law or regulations governing the practice as a vocational nurse, may
13 result in disciplinary action.

14 b. On or about April 18, 1996, after pleading *guilty*, Respondent was convicted of one
15 misdemeanor count of violating Penal Code 487, subdivision (a) [grand theft], in the criminal
16 proceeding entitled *The People of the State of California v. Cecelia Theresa Ornelas* (Super. Ct.
17 Santa Barbara County, 1996, No. 463078.) The court sentenced Respondent to 30 days in jail,
18 placed her on probation for a period of 36 months, and fined her. The circumstances surrounding
19 the conviction are that on or about March 29, 1996, Respondent did unlawfully, steal and take
20 money, personal property of another person in the value exceeding nine hundred fifty dollars
21 (\$950.00).

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Vocational Nurse License No. VN 207576, issued to Cecelia Theresa Ornelas, a.k.a., Cecelia Theresa Leyva;

2. Ordering Cecelia Theresa Ornelas to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: **FEB 01 2013**



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant